

HOUSE BILL 2763  
By Purcell

AN ACT to amend Tennessee Code Annotated, Section 68-211-104; Title 68, Chapter 211, Parts 2 through 4; Title 68, Chapter 211, Part 8; Section 68-211-902; Section 68-211-903 and Section 68-211-924, relative to solid waste management.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-211-104, is amended by deleting the words "and the Tennessee Stream Pollution" and by substituting instead the words "or the Tennessee Water Quality".

SECTION 2. Tennessee Code Annotated, Section 68-211-104, is further amended by adding a new subdivision (4), as follows:

(4) Transport, process or dispose of solid waste in violation of this chapter, the rules and regulations established under the provisions of this chapter or in violation of the orders of the commissioner or board.

SECTION 3. Tennessee Code Annotated, Section 68-211-802(a)(1), is amended by deleting the language "this part" and by substituting instead the language "part 9 of this chapter".

SECTION 4. Tennessee Code Annotated, Section 68-211-802(a), is amended by deleting subdivision (9) in its entirety and by substituting instead the following:

(9) "Landfill" means a facility, permitted pursuant to part 1 of this chapter, where solid wastes are disposed of by burial in excavated pits or trenches or by placement on land and covering with soil or other approved material.

SECTION 5. Tennessee Code Annotated, Section 68-211-802(a)(10), is amended by adding a comma after the words "yard waste" and by deleting the language "which are required to be disposed of in a Class I landfill, as defined in regulations adopted pursuant to this chapter".

SECTION 6. Tennessee Code Annotated, Section 68-211-802(a)(14), is amended by adding the word "solely" between the word "engaged" and the word "in", and is further amended by adding the language and punctuation "A recovered materials processing facility is not a solid waste processing facility;" following the words and punctuation "reuse of recovered materials;".

SECTION 7. Tennessee Code Annotated, Section 68-211-802(a)(16), is amended by deleting the language "materials which would otherwise become", and is further amended by making the word "waste" plural.

SECTION 8. Tennessee Code Annotated, Section 68-211-802(a), is amended by deleting subdivisions (18) through (21) and by redesignating the subsequent subdivisions accordingly.

SECTION 9. Tennessee Code Annotated, Section 68-211-811, is amended by deleting the last sentence of subsection (a) in its entirety and by substituting instead the following:

The needs assessment shall be revised to reflect subsequent developments in the district by April 1, 1999, and every five (5) years thereafter.

SECTION 10. Tennessee Code Annotated, Section 68-211-812, is amended by deleting the section in its entirety.

SECTION 11. Tennessee Code Annotated, Section 68-211-813(a), is amended by adding the following new subdivisions immediately following the existing subdivision (1) and by redesignating the subsequent subdivisions accordingly:

(2) Once established, municipal solid waste regions shall continue to exist until dissolved, a successor region or regions established and the requirements of this section are met. A municipal solid waste region may be dissolved and a new region or reconfigured region established upon completion of the following procedure:

(A) The approval of the dissolution of the existing region by resolution of the county legislative body of each county in the existing region;

(B) The approval of the proposed new or reconfigured region by resolution of the county legislative body of each county that is to be a part of the new or reconfigured region;

(C) The submittal to the department of environment and conservation of a list of the new board members, their addresses, phone numbers , terms of office and a new or revised plan for any new or reconfigured region that complies with the requirements of this part; and

(D) The approval of the department of environment and conservation of all of the new or revised plans for all of the new or reconfigured regions.

(3) Each county and region shall continue to follow the existing approved plan until new or revised plans are approved by the department of environment and conservation for each new or reconfigured region.

SECTION 12. Tennessee Code Annotated, Section 68-211-813(b), is amended by deleting the existing subdivision (1) in its entirety and by substituting instead the following:

(1) The resolution establishing a region for a county or approving an agreement to establish a region with other counties shall provide for the establishment of a board to administer the activities of the region. This board shall consist of an odd number, not less than five (5) nor more than fifteen (15). Each county that is a member of a region shall be represented by at least one (1) member on the board. Municipalities that provide solid waste collection services or provide solid waste disposal services, directly or by

contract, shall be represented on the board. The members of the board shall be appointed by the county executives and municipal mayors, respectively, of the counties and eligible municipalities within the region. Municipalities entitled to representation on the board may agree to joint or multiple representation by a board member or for a county member to represent one (1) or more municipalities upon agreement of all local governments who share representation by a board member. Any such agreement shall specify the method of making the appointment for a member representing more than one (1) local governmental entity. Members of county and municipal governing bodies, county executives, municipal mayors, county and municipal officers and department heads may be appointed to the board. Appointments must be approved by the legislative or governing bodies of the respective counties and eligible municipalities within the region. The members of the board shall serve for terms of six (6) years or until their successors are elected and are qualified by taking an oath of office, except that the initial board shall have approximately one-third (1/3) of the members with terms of two (2) years, and approximately one-third (1/3) of the members with terms of four (4) years, so as to stagger the terms of office.

SECTION 13. Tennessee Code Annotated, Section 68-211-813(b)(2), is amended by inserting the language and punctuation “, not organized pursuant to part 9 of this chapter and” between the words “waste authority” and the words “in existence” in the first sentence of the subdivision and by adding a comma after the language “1991”.

SECTION 14. Tennessee Code Annotated, Section 68-211-814(a)(1), is amended by deleting the language “thirty (30)” and by substituting instead the language “sixty (60)”.

SECTION 15. Tennessee Code Annotated, Section 68-211-814(a), is amended by deleting subdivision (2) in its entirety and inserting instead the following:

(2) The plan may be revised at any time to reflect subsequent developments in the region and shall be revised every five (5) years after the plan’s initial approval. Each

revised plan shall be submitted to, reviewed by and approved or disapproved by the department of environment and conservation in the same manner as the initial plan.

SECTION 16. Tennessee Code Annotated, Section 68-211-814(b)(1)(A), is amended by inserting the language and punctuation “if one has been formed pursuant to part 9 of this chapter,” between the words “waste authority” and the words “by resolution” in the first sentence of the subdivision.

SECTION 17. Tennessee Code Annotated, Section 68-211-814(b)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(3) If the region has formed a solid waste authority pursuant to part 9 of this chapter, then the authority shall approve any permit applications as provided for in this section instead of the region.

SECTION 18. Tennessee Code Annotated, Section 68-211-814(b)(6), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(6) Before submitting a plan required by this part, each municipal solid waste region shall hold a public hearing on the proposed plan or revised plan.

SECTION 19. Tennessee Code Annotated, Section 68-211-815(a), is amended by inserting the language “and revised plan” between the word “plan” and the word “submitted”, and by deleting the citation “68-211-814” and by substituting instead the language “this part”.

SECTION 20. Tennessee Code Annotated, Section 68-211-815(b), is amended by inserting the language “and revised plan” between the word “plan” and the word “submitted” in the clause preceding the colon.

SECTION 21. Tennessee Code Annotated, Section 68-211-815(b)(14), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(14) A description of the responsibilities of the various participating jurisdictions;

SECTION 22. Tennessee Code Annotated, Section 68-211-815(b), is amended by inserting the following new subdivision (15) immediately following subdivision (14) and by redesignating the subsequent subdivision accordingly:

(15) A certification from the region's part 9 solid waste authority, if such an authority has been formed, or if no such authority has been formed, the county legislative body of each county in the region that they have reviewed and approved of the region's plan and/or revised plan; and

SECTION 23. Tennessee Code Annotated, Section 68-211-821, is amended by adding the following new sentence at the end of subsection (a):

In addition to appropriations of solid waste management funds made by the annual appropriations act, at any time during the fiscal year, the commissioner of environment and conservation, subject to the approval of the commissioner of finance and administration, may use any additional funds available from the solid waste management fund to fund activities authorized by this part.

SECTION 24. Tennessee Code Annotated, Section 68-211-823, is amended by deleting subdivision (1) in its entirety and redesignating subsequent subdivisions accordingly.

SECTION 25. Tennessee Code Annotated, Section 68-211-825, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) From funds available from the solid waste management fund, the department shall establish a matching grant program for the purchase of equipment needed to establish or upgrade recycling at a public or not-for-profit recycling collection site. Such equipment may include, but is not limited to, containers, balers, crushers and grinders. The local share of the match shall be determined by the department, using an economic index based upon factors which include, but are not limited to, per capita income and property values of the jurisdiction to be served. Areas falling within the lower economic scale on the index shall be eligible for lower matching rates.

SECTION 26. Tennessee Code Annotated, Section 68-211-825, is further amended by adding language at the end of the last sentence of subsection (b), so that as amended the sentence shall read as follows:

A county or municipality may only expend such rebate for recycling purposes and they must expend from local funds an amount equal to the amount of the rebate towards such purposes.

SECTION 27. Tennessee Code Annotated, Section 68-211-828, is amended by deleting the section in its entirety and by substituting instead the following:

From funds available from the solid waste management fund, the department shall award competitive grants for collection of household hazardous waste at a permanent site to municipalities with a population of one hundred thousand (100,000) or more in counties with a population of two hundred eighty-seven thousand seven hundred (287,700) or more according to the 1980 federal census or any subsequent federal census. An eligible municipality may only receive one (1) grant for the establishment of a permanent household hazardous waste collection site; however, if funds are available from the solid waste management fund, the department may award a municipality that has established a permanent household hazardous waste collection site annual grants to assist the municipality in maintaining and/or operating the permanent household hazardous waste collection site. A municipality that receives a grant pursuant to this section shall allow all residents of the county in which the municipality is located to use the permanent household hazardous waste collection site on the same basis as residents of the municipality. The mobile household hazardous waste collection service authorized by Section 68-211-829 shall not be provided in a county in which a municipality has established a permanent household hazardous waste collection site through a grant pursuant to this section.

SECTION 28. Tennessee Code Annotated, Section 68-211-829, is amended by deleting the first and second sentences in the section and by substituting instead the following language:

From funds available from the solid waste management fund, except as provided in Section 68-211-828, the department shall, directly or by contract, provide for the collection of household hazardous wastes on designated days in each county. Each county or part 9 solid waste authority, if such authority has been created, shall provide a service site and shall advertise in newspapers of general circulation in the county the day(s) and hours and location where the household hazardous wastes will be collected.

SECTION 29. Tennessee Code Annotated, Title 68, Chapter 211, Part 8, is amended by adding a new Section 68-211-830, as follows:

From funds available from the solid waste management fund, the department may award matching grants to persons to promote the development of new technology for solid waste and recovered materials management, the use of solid waste as a fuel substitute, or innovative solid waste management infrastructure development. Such matching grants shall be made on a competitive basis with appropriate criteria for such competition to be established by the commissioner of environment and conservation. When the recipient is a local government, the local share of the match shall be determined by the department, using an economic index based upon factors which include, but are not limited to, per capita income and property values of the local government. Jurisdictions falling within the lower economic scale on the index shall be eligible for lower matching rates.

SECTION 30. Tennessee Code Annotated, Title 68, Chapter 211, Part 8, is amended by adding a new Section 68-211-831, as follows:

From funds available from the solid waste management fund, the department may, directly or by contract, provide for the investigation and clean-up of unpermitted waste tire disposal sites and other unpermitted solid waste disposal sites. The



department shall attempt to recover funds expended from the person responsible for the disposal of the waste tires or solid waste pursuant to Section 68-211-117.

SECTION 31. Tennessee Code Annotated, Section 68-211-835, is amended by deleting subsection (d) in its entirety and by substituting instead the following:

(d) In addition to any tipping fee imposed by any local government under this section, there shall also be imposed a surcharge on each ton of municipal solid waste received at all Class I solid waste disposal facilities or incinerators as follows:

(1) eighty-five cents (\$0.85) per ton from July 1, 1996, through June 30, 1997;

(2) eighty cents (\$0.80) per ton from July 1, 1997, through June 30, 1998;  
and

(3) seventy-five cents (\$0.75) per ton from July 1, 1998, through June 30, 1999.

The operator of the municipal solid waste disposal facility or incinerator shall collect this surcharge and remit it to the state treasury to be paid into the state solid waste management fund. The surcharge imposed by this subsection shall expire on June 30, 1999.

SECTION 32. Tennessee Code Annotated, Section 68-211-841(a), is amended by deleting the language "ten (10)" and by substituting instead the language "twelve (12)", and is further amended by adding the following as appropriately designated subdivisions and by changing any punctuation as necessary:

( ) One (1) member representing the tire industry;

( ) One (1) member representing agriculture;

SECTION 33. Tennessee Code Annotated, Section 68-211-847, is amended by deleting such section in its entirety and by substituting instead the following:

After a region's plan is approved, the department of environment and conservation may award matching grants for implementing the education program component of the plan from funds available in the solid waste management fund. The local share of the match shall be determined by the department, using an economic index based upon factors which include, but are not limited to, per capita income and property values of the local government. Jurisdictions falling within the lower economic scale on the index shall be eligible for lower matching rates.

SECTION 34. Tennessee Code Annotated, Section 68-211-851, is amended by adding the following new sentence to the end of subsection (a):

A county or solid waste authority shall not utilize receptacles for the collection of municipal solid waste from the general public at sites separate from a convenience center or the site of generation.

SECTION 35. Tennessee Code Annotated, Section 68-211-853, is amended by inserting the words "Class I" between the word "any" and the word "landfill" in subsection (a), and is further amended in subdivision (a)(5) by deleting the words "solid waste disposal facility" and by substituting instead the words "Class I landfill".

SECTION 36. Tennessee Code Annotated, Section 68-211-853, is amended by deleting the words "or incinerator" from subsections (a) and (c).

SECTION 37. Tennessee Code Annotated, Section 68-211-861(a), is amended by inserting the words "Class I" between the word "at" and the word "municipal".

SECTION 38. Tennessee Code Annotated, Section 68-211-862(a), is amended by deleting the language and punctuation "Effective July 1, 1993," and is further amended by inserting the language "Class I" between the word "each" and the word "municipal" in the first sentence of the subsection.

SECTION 39. Tennessee Code Annotated, Section 68-211-862, is amended by deleting subsections (c) and (d) in their entirety.

SECTION 40. Tennessee Code Annotated, Section 68-211-863, is amended by deleting subsection (b) in its entirety.

SECTION 41. Tennessee Code Annotated, Section 68-211-867(d), is amended by deleting subsection (d) in its entirety and by substituting instead the following:

(d) From funds available from the solid waste management fund, the department may offer to counties grants to assist counties in locating, collecting, and appropriately disposing of waste tires.

SECTION 42. Tennessee Code Annotated, Section 68-211-871, is amended by adding a new subsection (e), as follows:

(e) Any person operating a recovered materials processing facility shall report annually the quantities of recovered materials processed at that facility, by type of material, directly to the department or its designee, in a manner approved by the department. The department may enter into agreements with private recycling organizations to facilitate the gathering of such information. Such information shall be treated as proprietary information but may be compiled and reported in cumulative statewide totals, by type of recovered material. Such information may not be released to the public in such a manner as to identify it with an individual recovered materials processing facility. A recovered materials processing facility which fully complies with the reporting requirements of this subsection shall not be subject to the reporting requirements of subsection (c), for information solely related to the operation of the recovered materials processing facility.

SECTION 43. Tennessee Code Annotated, Section 68-211-902(a), is amended by deleting subdivision (5) in its entirety and by substituting instead the following:

(5) "Person" means person as defined in Section 68-211-103;

SECTION 44. Tennessee Code Annotated, Section 68-211-902(a)(9), is amended by deleting "(7)" from the statutory citation contained therein.

SECTION 45. Tennessee Code Annotated, Section 68-211-902(a)(10), is amended by deleting the word “disposal”.

SECTION 46. Tennessee Code Annotated, Section 68-211-903(a), is amended by deleting the sentence that begins with the words “No authority” and ends with the word “resolution”.

SECTION 47. Tennessee Code Annotated, Section 68-211-903(a), is further amended by adding the words “and the commissioner” to the end of the last sentence.

SECTION 48. Tennessee Code Annotated, Section 68-211-924, is amended by deleting the section in its entirety and by substituting instead the following:

An authority may be dissolved by a resolution approved by all county and municipal government bodies participating in the organization of the authority. A resolution to dissolve the authority shall contain adequate provisions to divide the assets and liabilities of the authority among the participating county and municipal governments in an equitable manner if the authority has assets in excess of liabilities. In the event that the authority has liabilities in excess of assets, the resolution of dissolution shall provide for the allocation of assets of the authority among the creditors of the authority by agreement between the creditors of the authority and the board of directors of the authority. In the event that such an agreement cannot be reached within ninety (90) days after the approval of the resolution to dissolve the insolvent authority, then the board of directors of the authority shall petition the chancery court for an equitable allocation of assets. The chancery court shall hear the cause and shall enter a decree for the allocation of the assets of the authority among the authority’s creditors. After the final disposition of the assets of the authority, the board of directors of the authority shall notify, in writing, the governing bodies of the participating governments, the secretary of state, and the department of environment and conservation of these actions, whereupon the board of directors and the authority shall cease to exist.

SECTION 49. Tennessee Code Annotated, Title 68, Chapter 211, is amended by deleting Part 2, Part 3 and Part 4 in their entirety.

SECTION 50. This act shall take effect July 1, 1996, the public welfare requiring it.

AN ACT to amend Tennessee Code Annotated, Section 68-211-104; Title 68, Chapter 211, Parts 2 through 4; Title 68, Chapter 211, Part 8; Section 68-211-902; Section 68-211-903 and Section 68-211-924, relative to solid waste management.

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